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Controller's Audit Shows State PUC Failed to Collect \$32.2 Million in Fines and Restitution

SACRAMENTO – An audit released today by State Controller John Chiang reveals the California Public Utilities Commission's (CPUC) accounting and collection procedures resulted in the loss of more than \$32 million in fines and restitution that have gone uncollected since 1999.

"The Public Utility Commission has broad powers to regulate utility, telecommunication, and transportation companies, such as moving companies, limousine services and airport shuttles," Chiang said. "It is important that the commission improve its collections procedures to safeguard not only the State's limited resources, but also consumers who rely on the commission to protect their interests and their pocketbooks."

The Controller's audit was conducted to address concerns raised that the CPUC failed to collect millions of dollars in fines and restitution by not vigorously pursuing collection efforts. The audit showed that, since 1999, the CPUC has imposed \$300 million in fines and restitution against utility and telecommunication companies, and collected 84% of the fines, and 75% of the restitution. Of the \$515,421 levied against transportation companies, the CPUC collected 15% of the fines, and 12% of the restitution payments.

In reviewing the CPUC's records, the State Controller found that that the CPUC does not adequately review the background and financial viability of applicants for licenses to operate as telecommunications providers. The CPUC requires only minimal information on an application form and a \$75 application fee to register as a telecommunications provider. The Controller found that the majority of CPUC fines deemed uncollectible (\$29.2 million of the \$32.2 million) were levied against telecommunication companies that either ceased to operate or filed for bankruptcy after the CPUC launched investigations or imposed fines for fraudulent or questionable activities. In many cases, these companies began billing consumers for millions of dollars in unauthorized charges shortly after being registered by the CPUC.

The Controller's audit also found that the CPUC:

- Sometimes takes years to render a decision imposing fines and restitution, sometimes after the company has filed for bankruptcy protection.
- Has not developed formal guidelines, processes and procedures to ensure uniformity and consistency in its collection efforts, which are fragmented among various divisions.
- Does not have a centralized collection unit, and, in many cases, made no attempt to collect even after obtaining a court judgment at considerable effort and expense.

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- Made little effort to refer companies and individuals suspected of fraud to law enforcement agencies for prosecution, even though some of the companies or their principals were prosecuted by law enforcement agencies in other states for engaging in similar activities.
- Did not enter into its accounting records approximately \$126.5 million in fines imposed since 1999, making it difficult to maintain proper accountability over how fines are recorded or tracked.

The Controller's Audit recommended that the CPUC should:

- Conduct more stringent background and financial viability reviews of individuals and companies applying for licenses to operate as telecommunication providers.
- Consider incorporating into the application approval process a requirement that companies post a performance bond before they are registered.
- Consider sponsoring legislation to preclude transportation companies from re-registering or transferring title of company-owned vehicles that carry unpaid CPUC-imposed fines with the Department of Motor Vehicles.
- Consider sponsoring legislation to allow the CPUC to pursue collection activities without a Superior Court judgment if the CPUC's order to impose fines or restitution is not appealed within a specific timeframe.
- Consider establishing a centralized collection unit and adopting procedures for the collection of fines, penalties and restitution.
- Develop criteria to refer companies believed to have engaged in fraudulent practices to the appropriate law enforcement agency for possible legal action.
- Fully document the rationale for determining that a collection is no longer possible or feasible, and submit to the Controller's Office a request for discharge of accountability in accordance with State law. Before filing for a discharge of accountability, the CPUC should record the fines in its accounting records to provide for a proper audit trail.
- Arrange for a comprehensive audit of its internal control system, processes and procedures.

In its response to the Controller's draft audit report, the CPUC stated that it already has initiated action to address the findings and recommendations. In particular, prior to the Controller's audit, the CPUC in March 2007 prepared draft "standard operating procedures" for collection of fines, penalties and restitution, which appeared to address many issues identified in this audit report.

The [report](http://www.sco.ca.gov), including CPUC's response can be found on the Controller's Web site at www.sco.ca.gov.

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